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[REDACTED]

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]

DECISION

FOO/143524

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 28, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Racine County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on September 25, 2012, at Racine, Wisconsin.

The issue for determination is whether the agency properly determined the Petitioner's FS eligibility.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services

1 West Wilson Street

Madison, Wisconsin 53703

By: Kathy Christmas

Racine County Department of Human Services

1717 Taylor Ave

[REDACTED]-2497

**ADMINISTRATIVE LAW JUDGE:**

Debra Bursinger

Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.
2. On July 9, 2012, the Petitioner applied for FS benefits via ACCESS online. Petitioner reported a household size of 5 including two adults and three minor children.

3. On July 18, 2012, a phone interview was conducted between the Petitioner and the agency. Petitioner reported that she has primary placement of minor child AB. At the time of the Petitioner's application, AB was included in her father's FS group.
4. On July 18, 2012, the Petitioner faxed a court order signed March 3, 2011 verifying Petitioner has primary placement of AB 57 % of the time with AB's father having placement 43% of the time.
5. On July 18, 2012, Petitioner also provided verification of income for herself and her husband. According to the pay statements submitted for Petitioner's husband, his income for the last 30 days from the City of Racine was \$4,548.58. The Petitioner submitted a pay statement for herself for one pay period in July, 2012 indicating Petitioner had gross pay of \$1,499 from the Department of Veterans Affairs. The verification also indicated that this was the last paycheck for the Petitioner as her employment was ending.
6. Petitioner started receiving Unemployment Compensation benefits of \$363/week in August, 2012.
7. Petitioner's shelter costs are \$1,180/month.
8. On July 23, 2012, the agency issued a Notice of Decision to the Petitioner notifying her that her application for FS benefits was denied because household income exceeds the program limits. It also informed the Petitioner that AB could not get FS benefits as part of her case because she is getting benefits as part of her father's FS case.
9. On August 28, 2012, the Petitioner filed an appeal with the Division of Hearings and Appeals.

### **DISCUSSION**

As a general rule, applicants for FoodShare (FS) benefits are eligible to receive benefits provided they meet financial eligibility requirements. FS Wisconsin Handbook (FSH), §1.1.3. A threshold financial eligibility requirement is the gross income test. The gross income limit for most households is 200% of the Federal Poverty Level (FPL). Id., 4.2.1.1. The 200% FPL amount for a group of five at the time of the Petitioner's application in July, 2012 was \$4,362. Id., §8.1.1. The 200% FPL amount for a group of four at the time of the Petitioner's application was \$3,726. Income must be converted to a monthly amount. 7 Code of Federal Regulations, §273.10(c)2(i). Most FS groups are considered categorically eligible if gross income is at or below 200% FPL. FSH 4.2.1.1. In general, a household must initially pass the so-called "gross income limit". The FS eligibility calculation process allows for certain deductions from gross income to arrive at a "net income" then tested against a "net income limit". But this process only occurs if the household first passes the gross income test. If the applying household does not pass the gross income test, then the net income test, and the applicable deductions, is not even reached.

Eligibility and benefit calculations for FS FoodShare are based on prospectively budgeted monthly income using estimated amounts. The income to be budgeted is identified through the interview and the verification process. The worker must use the best-verified information available when determining the best estimate of income. FSH 4.1.1.

In this case, the agency used the employment verifications and pay statements to determine monthly gross income for the Petitioner's household. Based on the pay statements for the previous 30 days provided by the City of Racine, the Petitioner's husband had gross income of \$4,548.58. The Petitioner also had earned income of \$1,499 for the month of July and unearned income of \$363/week beginning in August, 2012. The gross income of the Petitioner's husband alone exceeds the gross income limit for FS eligibility for a group size of four or five.

The Petitioner testified that she was told if AB was included, the household income would not have exceeded the net income limit and the household would have been eligible to receive benefits.

The Petitioner's household exceeded the gross income limits for eligibility for either a household size of four or a household size of five. Even though the household exceeded the gross income limit, I reviewed the agency's calculations related to net income. The agency provided budget screens showing its calculations for July and August using gross income of \$4,548.58 (Petitioner's husband only) and \$6,047.58 (Petitioner's income of \$1,499 and Petitioner's husband income). The net income limit for a household of five was \$2,181. In all of the calculations, the household's net income exceeds \$2,181. Specifically, the net income using only the Petitioner's husband's income was \$3,463.57. This was calculated based on an earned income deduction of \$909.71 and a standard deduction of \$155.

Based on the evidence presented, the agency properly determined that the Petitioner's household income in July, 2012 exceeded gross and net income limits. The Petitioner raised the issue of AB's inclusion in the household group. Though the agency found that AB was not eligible to be included in the Petitioner's FS group because she was in her father's FS group, the agency presented evidence to show that including AB in the Petitioner's FS group would still result in the household income exceeding gross and net income limits.

### **CONCLUSIONS OF LAW**

Based on the evidence, the Petitioner's household income exceeded gross and net income limits at the time of application in July, 2012. The agency properly determined the Petitioner was not eligible for FS benefits.

**THEREFORE, it is**

**ORDERED**

That the petition be, and hereby is, dismissed.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

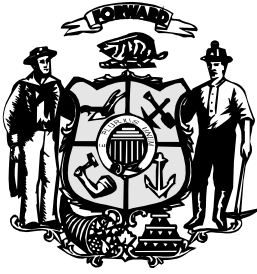
The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 24th day of October, 2012

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Debra Bursinger  
Administrative Law Judge  
Division of Hearings and Appeals

c: Division of Health Care Access and Accountability, DHSDHADHCAA@Wisconsin.gov -  
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The preceding decision was sent to the following parties on October 24, 2012.

Racine County Department of Human Services  
Division of Health Care Access and Accountability